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Attorney for Defendant

SUPERIOR COURT  
2011 AUG -8 PM 5: 02  
SANDRA K HARKHAM, CLERK  
BY: Kelly Gresham

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF YAVAPAI**

**STATE OF ARIZONA,**

**Plaintiff,**

**vs.**

**STEVEN DEMOCKER,**

**Defendant**

**P1300CR201001325**

**REQUEST FOR DEPOSITION:  
Dr. Phillip Keen**

**(Hon. Warren Darrow)**

The Defendant, by Counsel undersigned, requests that this Court order Dr. Phillip Keen, Brown, former Yavapai County Medical Examiner, to participate in a Deposition. The state has informed Counsel undersigned that Dr. Keen will not participate in a voluntary interview. By "voluntary" we mean "free."

The state informed Counsel that Dr. Keen demands that the the Defense pay \$350.00 per hour for an interview. (See attached). Dr. Keen in an important witness. He is the medical examiner who performed the autopsy on Carol Kennedy. Dr. Keen was employed by Yavapai County at the time of the autopsy – and was not making \$350.00 an hour.

The Defendant has been declared indigent in this case.

This Request is made pursuant to Rules 15.3(a)(1) and 19.3(b), Arizona Rules of Criminal Procedure, and Kirkendall v. Fisher, 27 Ariz.App. 210, 553 P.2d 243 (1976).

“According to Rule 15.3, a court may order the deposition when ‘[a] party shows that the person's testimony is material to the case ... and that he will not cooperate in granting a personal interview.’ Rule 15.3(a)(2), Arizona Rules of Criminal Procedure.”

“A witness is uncooperative within the meaning of Rule 15.3 when the witness attaches such conditions to an interview that ‘it makes the situation untenable for defense counsel to discover needed material.’”

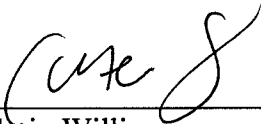
Arcaris v. Superior Court, 160 Ariz. 533, 534, 774 P.2d 837, 838 (Ariz.App.,1989), citing Kirkendall, at 245.

The autopsy was an important event in this case. The fact that DNA from a previous autopsy was found under the victim's fingernails is a vital area for pre-trial discovery.

Information regarding the identity of biological DNA sample Item #603 was not available during the previous trial, and therefore the Defense had no prior opportunity to question Dr. Keen regarding this subject.


The Defense request that the deposition be held at the Defense Attorney's office, and Lott Reporting be the reporter.

RESPECTFULLY SUBMITTED this August 8, 2011.

  
\_\_\_\_\_  
Craig Williams  
Attorney for the Defendant

Copies of the foregoing faxed / mailed / or delivered this date to:

Copies of the foregoing delivered this date to:

Hon. Warren Darrow, Judge of the Superior Court  
Jeff Paupore, Steve Young, Yavapai County Attorney's Office  
The Defendant  
By:  \_\_\_\_\_

## Yavapai Law

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**From:** Steve Young [Steve.Young@co.yavapai.az.us]  
**Sent:** Monday, June 27, 2011 2:02 PM  
**To:** 'Yavapai Law'; Rhonda Grubb; Jeff Paupore  
**Subject:** RE: St v DeMocker Keen IV

Since this is a requested defense interview, the defense pays for the interview. Please let us know whether you want the interview or if you are declining this opportunity.

Steve Young  
Deputy County Attorney

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**From:** Yavapai Law [<mailto:yavapailaw@hotmail.com>]  
**Sent:** Monday, June 27, 2011 1:54 PM  
**To:** Rhonda Grubb; Jeff Paupore; Steve Young  
**Subject:** RE: St v DeMocker Keen IV

\$350.00 an hour? Wasn't he already paid by the County in this case? Who is supposed to pay this?

So, no, until I know more about this, I am not going to confirm the date.

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**From:** Rhonda Grubb [<mailto:Rhonda.Grubb@co.yavapai.az.us>]  
**Sent:** Monday, June 27, 2011 1:31 PM  
**To:** 'Yavapai Law'  
**Subject:** St v DeMocker Keen IV

Good afternoon,

Dr. Keen's interview has been rescheduled for Thursday July 14<sup>th</sup> at 2:00 Dr. Keen does charge for his interview time, \$350/hr. Please confirm this interview.

Thank you,  
Rhonda